BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 90-287-W/S - ORDER NO. 91-535

JULY 3, 1991

IN RE: Application of TCU, Inc. for Approval of a New Schedule of Rates and Charges for Water and Sewer Service Provided to Tega Cay, South Carolina.	)))))	ORDER ON PETITIONS FOR REHEARING AND RECONSIDERATION

This matter is before the Public Service Commission of South Carolina (the Commission) on the Petitions for Rehearing and Reconsideration filed by TCU, Inc. (the Company or TCU), Albert K. Stebbins (Mr. Stebbins), and the Consumer Advocate for the State of South Carolina (the Consumer Advocate) in regard to Order No. 91-367 in the above docket. Order No. 91-367 granted TCU a portion of its requested increase in rates and charges for water and sewer service it provides to its customers in Tega Cay, South Carolina. Upon thorough consideration of each of the Petitions, the Commission grants reconsideration in part, grants rehearing in part, and denies the Petitions in part as fully explained by this Order.

COMMON ISSUES AMONG THE PETITIONS

The Company and Mr. Stebbins contend that the Commission's establishment of a 3.34% operating margin was improper. TCU argues that the 3.34% operating margin is "so small as to be confiscatory and is thus arbitrary, capricious and unreasonable." TCU's

Petition, p. 6. TCU further contends that the established operating margin is less than the interest rates it is paying on its debt and is less than returns available on stocks, corporate bonds, and other safe investments.

Mr. Stebbins contends that because the Tega Cay Subdivision is in the early stages of its development, the Commission's 3.34% operating margin will eventually produce an excessive windfall to the Company. He also contends the Commission has failed to justify the 3.34% operating margin.

In determining that the Company should have a reasonable opportunity to earn a 3.34% operating margin, this Commission carefully balanced the interests of the Company and of its customers. In setting TCU's operating margin, the Commission followed the guidelines of Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923), and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944), wherein the United States Supreme Court stated that a public utility commission does not ensure through regulation that a utility will produce net revenues and that a regulated utility "has no constitutional rights to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures." However, the Commission also remained cognizant of the Supreme Court's directive that, in considering all relevant facts, it should establish rates which will produce revenues "sufficient to assure confidence in the financial soundness of the utility and...that are adequate under efficient

and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." Bluefield, supra, at 692-693.

The Commission considered the Company's revenue requirements, the Company's proposed price for its water and sewer service, the quality of the water and sewer service, and the effect of the proposed rates upon the consumer. See, Seabrook Island Property Owners Ass. v. South Carolina Public Service Commission, ___S.C.___, 401 S.E.2d 672 (1991). Specifically, the Commission determined that, after adopting all proper accounting adjustments, TCU is currently operating with a negative operating margin. The Commission recognized that TCU's customers have not had their water or sewer rates increased since 1984. In setting the 3.34% operating margin, the Commission also considered the fact that basic expenses have increased since 1984 and that TCU has recently made $232,000 worth of capital expenditures to its sewage treatment facilities which directly benefit its current ratepayers. Order, p. 30.

On the other hand, the Commission recognized that many of TCU's customers are dissatisfied with the aesthetic quality of the water they are receiving from TCU. The Commission noted the Company's attempts at improving the quality of the water but found that TCU could expend greater effort in improving the aesthetic quality of its water product. The Commission determined that TCU's proposed increase in its rates and charges would increase an average residential customer's monthly water bill by 115% and an

average residential customer's monthly sewer bill by 121%. Order, pps. 29-30.

The Commission concludes that it properly considered and gave appropriate weight to all relevant facts presented to it in establishing a 3.34% operating margin. Moreover, upon additional reflection, the Commission continues to conclude that the 3.34% operating margin is fair and reasonable to both the Company and its customers. If it employs efficient and economical management, the operating margin allows TCU to be financially stable and, at the same time, will discourage the wasteful use of its services by its customers.

TCU's argument that the granted operating margin is confiscatory because it is less than the interest it is paying on its debt is without merit. In determining that a 3.34% operating margin is appropriate, the Commission included TCU's allowable interest expense in the Company's operating expenses. Accordingly, TCU will be recovering its interest expense in its operating margin.

Further, while TCU claims that the granted operating margin is less than the return on safe investments, the Commission finds there is no evidence in the record supporting this generalization. Moreover, as noted above, the Commission's establishment of a 3.34% operating margin is supported by the substantial evidence in the record and is, accordingly, neither arbitrary nor capricious.

Finally, in regard to Mr. Stebbins' argument, the Commission concludes that Order No. 91-367 fully examines all the evidence

which is relevant to the establishment of an operating margin. The Commission further concludes that the Order reflects the Commission's due consideration of the Bluefield, Hope and Seabrook Island decisions. Accordingly, as fully explained above, the Commission finds that Order No. 91-367 sufficiently justifies its conclusion that TCU should have the opportunity to earn a 3.34% operating margin.

Finally, the Commission has considered Mr. Stebbins' claim that because Tega Cay is a growing community the 3.34% operating margin will eventually allow the Company to earn a windfall. The Commission rejects this claim. In setting an operating margin, this Commission examines the relationship between a utility's expenses, revenues, and investment in an historic test period, the quality of service provided to its customers, and the effect of the proposed increase on its customers. Patton v. South Carolina Public Service Commission, 280 S.C. 288, 312 S.E.2d 257 (1984). Accordingly, an operating margin is based in large part on historic data with adjustments for known and measurable changes. Because this Commission can neither predict the future rate of development at Tega Cay, the rate of inflation, the increase or decrease in TCU's expenses nor other changes in TCU's financial situation, it is inappropriate for the Commission to consider unknown and non-quantifiable changes in the long-term in setting an operating margin. The Commission concludes that, based on proper adjustments to the test year for known and measurable changes, and after due consideration of all relevant factors, it set an appropriate

operating margin.

The Company's Petition

1. Interest and Depreciation on New Sewer Treatment Plant (Plant No. 4).

TCU argues that because the South Carolina Department of Health and Environmental Control (DHEC) required the Company to construct Plant No. 4 to meet expected growth in Tega Cay, the Commission should have included the interest and depreciation expenses associated with the plant's construction in calculating its net operating income. TCU relies on Southern Bell, supra, and asserts that the Commission's failure to treat Plant No. 4 as property held for future use violates various provisions of S. C. Code Ann. §1-23-380 (1986). The Commission disagrees.

In Southern Bell Telephone & Telegraph Company v. The Public Service Commission of South Carolina, 270 S.C. 310, 313 S.E.2d 278 (1978), the Supreme Court charged the Commission with making a factual determination as to whether property purchased for future use but not yet used and useful should be included in a utility's rate base for ratemaking purposes.[1] The Court stated that if the "property was purchased to serve a future utility purpose, it should be treated as 'devoted to the public service' and included in the computation of the utility's rate base." Id. at 283-284. The Court quoted a portion of In Re New England Telephone and

1. While the Commission established an operating margin in this case and did not specifically develop TCU's rate base, the Commission and the Company agree the Southern Bell opinion is still applicable.

Telegraph Co., 99 P.U.R.3d 288, 232 (R.I.P.U.C. 1973), in which the Rhode Island Commission stated:

> We included property held for future use in the rate base because we consider it to be in the public interest that the company acquire, in reasonable amounts, property that is necessary to meet foreseeable service requirements of the public....

The Supreme Court determined that the Commission should decide whether the property held for future use was bought in good faith for future utility use or for speculation.

In Order No. 91-367 the Commission excluded the interest and depreciation expense for Plant No. 4 from its calculation of the Company's net operating income because, according to the Company's President, Ed Oppel, sewer treatment plants 2 and 3 had 246 remaining taps. Order p. 22. Because such a large number of taps remained on the currently operating sewer treatment plants, the Commission determined that the need for Plant No. 4 was uncertain. Accordingly, the Commission determined that Plant No. 4 should not be considered plant held for future use.

Moreover, the Commission determined that DHEC's requirement that TCU construct Plant No. 4 was not binding on its treatment of the plant for ratemaking purposes. The Southern Bell opinion specifies that the Commission has the authority to determine whether plant held for future use is to be included in a utility's rate base for ratemaking purposes.

2. Single Family Sewer Equivalency Rating for the Tega Cay Clubhouse.

TCU contends that the Commission erred by using the DHEC Guidelines for Unit Contributory Loadings to Wastewater Treatment Facilities in establishing the single family equivalency (SFE) rating for the Tega Cay Clubhouse, one of TCU's commercial customers. TCU argues that because the Tega Cay Clubhouse is used on only a limited basis, a more accurate measure of sewer usage would be based on the Clubhouse's average water consumption. TCU contends that under its proposed rate, the Clubhouse would generate approximately $434 in monthly revenues instead of the $1,515.13 using the DHEC SFE rating.

The Commission concludes it properly assigned a SFE to the Tega Cay Clubhouse because DHEC requires the Tega Cay Clubhouse to have the SFE capacity of 48.875. Regardless of whether the Clubhouse actually uses the full extent of this capacity, the Clubhouse should be required to reimburse TCU for the availability of this capacity. Moreover, the Commission finds that TCU is not prejudiced by the use of the SFE. Under the Commission's Order the Tega Cay Clubhouse will have to pay TCU a larger monthly flat rate sewer bill than under the Company's proposed rate.

Mr. Stebbins' Petition

1. Increased Commodity Charge.

Mr. Stebbins contends he established from the Company's annual statements that the previously approved commodity charge of $1.50 per 1,000 gallons of water adequately covered the Company's

chemical and electric expenses. Accordingly, Mr. Stebbins argues that the commodity increase to $2.50 per 1,000 gallons of water was not justified. The Commission disagrees.

This Commission allows a utility to recover those operating expenses which are directly related to serving the customer. In this case, in addition to chemicals and electricity, the Commission permitted the Company to recover salaries and wages, rate case expenses, uncollectibles, telephone expenses, interest on long-term debt, depreciation, unaccounted for water, and taxes. Mr. Stebbins has not considered the costs associated with these expenses in determining that the $1.50 per thousand gallons of water commodity charge adequately covered the Company's expenses. Moreover, in determining rates that would produce the necessary revenue to allow TCU the opportunity to earn a 3.34% operating margin, the Commission chose to increase the commodity charge in order to encourage conservation among customers.

2. Test Year Revenues and Expenses.

Mr. Stebbins contends that the test year revenues and expenses were atypical and that the Commission should not have relied on those figures to increase the water commodity charge from $1.50 to $2.50 per 1,000 gallons. The Commission disagrees.

The Commission considered TCU's pro forma operating revenues and expenses during the test year and, where appropriate, made adjustments in order for the revenues and expenses to reflect the typical financial condition of the Company. Accordingly, any unusual circumstances were modified to reflect normal operating

conditions. Therefore, the Commission properly relied on the twelve month period ending April 1990, with its adjustments, in determining that TCU required an increase in its rates and charges.

3. Customer Growth.

Mr. Stebbins contends the Commission inadequately adjusted for customer growth. Mr. Stebbins argues that Tega Cay has an historic growth rate of 75 units per year and that under the previously approved rates, TCU will accumulate over $1,000,000.00 as profit. Mr. Stebbins asserts that under the recently approved rates, TCU's annual profit will increase by an additional $410,000.00. The Commission disagrees.

By including a customer growth figure in its calculations, the Commission annualizes the revenues produced and the expenses incurred by the addition of new customers during the test year period. Unlike the method proposed by Mr. Stebbins, the Commission does not project future customer growth or associated future revenues and expenses.

In Order No. 91-367, the Commission accepted Staff's proposal, based in its customary customer growth formula, which determined that the net operating effect of the twenty-five customers added to the TCU system during the test year was $422.00. The Commission found that Staff's proposal was accurate in that it represented the actual number of new customers and their effect on TCU's Net Operating Income on an annualized basis. Order, p. 24-25. The Commission concludes its acceptance of Staff's customer growth adjustment was correct.

4. Tega Cay Clubhouse.

Mr. Stebbins asserts the Commission should have used the DHEC SFE for a country club for the Tega Cay Clubhouse which is owned by Tega Cay Recreation. Mr. Stebbins asserts that since Tega Cay Clubhouse has 1,200 family memberships, 150 SFEs would be immediately added to TCU's operating revenues.

In regard to the Clubhouse, the Commission set a SFE of 48.875 The Commission determined that instead of the DHEC SFE of 150, the 48.875 rate was appropriate because the Clubhouse did not have the typical characteristics of a country club.[2] For instance, Mr. Stebbins testified that there was no membership fee for use of the Clubhouse and its facilities. Stebbins Pre-Filed testimony p. 9. Company witness Oppel testified that the Clubhouse restaurant was open only five (5) days a week. Moreover, Oppel testified that TCU's office was located within the Clubhouse.

The Commission concludes the substantial evidence in the record supports its decision to adopt an SFE of 48.875.

2. The Commission adopted Staff's recommendation to set the Clubhouse SFE at 48.875. Staff developed the SFE of 48.875 by determining the equivalency ratings of each of the areas of the Clubhouse (i.e. swimming pool, restaurant, meeting room) and then establishing the gross result.

THE CONSUMER ADVOCATE'S PETITION FOR REHEARING

1. Low Water Sales for Test Year.

The Consumer Advocate contends that because the Company's test year water[3] consumption figures were lower than the consumption rates for calendar years 1987, 1988, and 1990, the Commission should have adjusted the test year operating revenues to reflect the usual water sales volumes of TCU.[4] The Consumer Advocate argues that the Commission's failure to make this adjustment is not supported by the substantial evidence of the record. Additionally, the Consumer Advocate contends that the Commission improperly compared the 1987 and 1988 sales volumes to the test year sales volumes. Finally, the Consumer Advocate argues that the Commission should have made an adjustment as it did in Wild Dunes Utilities, Inc. for Hurricane Hugo. Docket No. 89-601-W/S, Order Nos. 90-650 (July 3, 1990) and 90-796 (August 22, 1990). The Commission disagrees.

First, the Commission finds that its decision not to adjust the test year revenues was proper and is supported by the record. Although the Commission agrees that "[w]here an unusual situation exists which shows that the test year figures are atypical [it] should adjust the test year data," Parker v. South Carolina Public

3. The test year was the twelve month period ending April 30, 1990.

4. The test year water sales volumes were 89,815,134 gallons. The 1987 sales and 1988 sales volumes were 90,025,000 gallons and 91,190,000 gallons, respectively. The 1990 sales volumes, which included four months of the test year, were 104,010,000 gallons.

Service Commission, 280 S.C. 310, 313 S.E.2d 290 (1984), in this case calendar years 1987, 1988, and 1990 and the test year each had unusual circumstances which reflected atypical sales volumes. Company witness Oppel testified that in 1987 and 1988 there was a severe drought and, therefore, he speculated that water consumption increased. He testified that in 1989, which encompassed 3/4 of the test year, there were severe rains and that customers did not consume as much water. Additionally, Oppel stated that destruction from Hurricane Hugo, which occurred in the middle of the test year, precluded customers from using water and that this reduced the test year sales figures. Further, witness Oppel testified that more customers were added to the TCU system in 1990 and that their addition increased water consumption. The Consumer Advocate states in its Petition that there is a 16% difference between the test year sales volumes and the 1990 sales volumes. Consumer Advocate's Petition p. 2. Based on the unusual events in the test year and 1987, 1988, and 1990, "normal" sales volumes could not be determined. Accordingly, the Commission concludes that its decision not to adjust the test year sales was proper.

Second, the Commission finds it properly compared the 1987 and 1988 sales volumes to the test year volumes. Consumer Advocate witness Philip Miller testified that the test year water sales volumes were lower than the 1987, 1988, and 1990 water sales volumes. Miller, Pre-filed Testimony, p. 5. Accordingly, the Commission compared the 1987, 1988, and 1990 volumes with the test year volumes. Order, p. 19.

Third, the Commission concludes it did not err by not adjusting the Company's test year revenues to reflect the effect of Hurricane Hugo. In this case, no party proposed that the Commission make an adjustment for Hurricane Hugo. Moreover, no party provided the Commission with the quantitative effect of Hurricane Hugo. Accordingly, the Commission could not have known the appropriate amount of an adjustment. Cf. Wild Dunes Utilities, Inc.[5]

2. Unaccounted for Water.

In Order No. 91-367, the Commission determined that TCU's unaccounted for water rate of 14.1% during the test year was not unreasonable. Order, p. 25. The Consumer Advocate contends this conclusion is not supported by the evidence in the record. The Commission agrees. Accordingly, the Commission grants the Consumer Advocate's Petition for Rehearing on this issue.[6]

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5. Order No. 90-650 states that in Wild Dunes Utilities, the Company supplied information that indicates that for twenty days immediately following Hurricane Hugo, all customers were without water and sewer service. Of approximately 1,500 homes being served by Wild Dunes, 527 had their water and sewer services discontinued. Approximately eight months after the hearing, 468 homes were still not receiving service, and of the 56 homes reconnected, most of those were reconnected so that construction work could be performed. The utility projected that normal service to the original customer base of approximately 1,500 homes would not return until January, 1991 at best, approximately fifteen months after the hurricane.

6. Because the Commission is granting a new hearing on the issue of unaccounted for water, it is of the opinion that the Consumer Advocate's argument that the Commission erred by shifting the burden of proof from the Company to the intervenors is moot.

3. Unmetered Swimming Pool.

The Consumer Advocate claims that the Commission erred by not including water provided by TCU to the Tega Cay Recreation swimming pools in the Company's operating revenues. The Commission agrees.

Witness Oppel admitted that TCU had inadvertently failed to meter the 262,440 gallons of water used to fill the Tega Cay Recreation swimming pools. The Commission finds that it should have adjusted the test year revenues to properly reflect compensation which TCU should have received for this water. Accordingly, the Commission has adjusted test year revenues appropriately.[7]

4. Water and Sewer Tap Fees.

The Consumer Advocate contends the Commission erred by approving the Company's proposed water and sewer tap fees. The Consumer Advocate argues that the Commission lacked the statutory authority to approve the proposed tap fees, that Order No. 91-367 does not set forth sufficient findings of fact on the tap fee issue, and that approval of the proposed tap fees is not supported by the substantial evidence on the record. The Commission disagrees with each of these arguments.

First, pursuant to S.C. Code Ann. §58-3-140(A)(Supp. 1990), the Commission is specifically "vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State...". Accordingly, the Commission clearly has

7. The Commission concludes that this adjustment which increases test year sales by $466.00 does not affect the Company's rates.

the statutory authority to regulate a utility's proposed tap fee.

Second, Order No. 91-367 complies with S.C. Code Ann. §1-23-350(1986) by setting forth substantial findings of fact and conclusions of law on the tap fee issue. Order pps. 17-18; p. 31.

Third, the Commission's approval of TCU's proposed water and sewer tap fee is supported by substantial evidence on the record. Although the Consumer Advocate contends that its witness Miller and Staff witness Creech testified they were unable to verify the proposed tap fees, Company witness Oppel provided the Commission with sufficient and credible evidence justifying the tap fees. Witness Oppel testified that the proposed tap fees were determined "with a view toward recovering both the Company's investment in having the sewer treatment and water production capacity available for use by customers and the cost to the Company of making the actual physical tap connection for water and for sewer." Oppel Pre-Filed testimony pps. 9-10. Oppel explained that the requested $1,200 sewer tap fee was justified because TCU had invested over $2 million in unrecovered plant and equipment for sewer treatment. He testified that 964 sewer taps were available, thereby allowing the Company to charge in excess of $2,000 for each sewer tap in order to recover the cost of having sewer service available to TCU customers. Oppel further testified that the cost for the physical connection of sewer taps was, on average, $374. Oppel testified that the connection cost for a water tap was, on average, $437 and that 964 water taps were available. Staff computed the unrecovered

water plant and equipment at $281,347.[8] Hearing Exhibit 14.

26 S.C. Regs. 103-502.11 and 103-702.14 (Supp. 1990) provide that a tap fee is "[a]non-recurring, non-refundable charge related to connecting the customer to the utility's system which includes the cost of installing the utility's service line from the main to the customer's premises and a portion of plant capacity which will be used to provide service to the new customer." Mr. Oppel's testimony and Staff computation provide the necessary data to justify the approved water and sewer tap fees.

5. Customers Gilbraltar Company, Inc.

In its previous order setting rates and charges for TCU, the Commission excluded customers of Gilbraltar Company, Inc. in Sections 8A, 8B, and 26D from paying water and sewer tap fees. Order No. 84-739, in Docket No. 83-502-W/S (September 25, 1984). The Commission excluded the customers in these sections of Tega Cay because the Gilbraltar Company had installed the water and sewer lines in those sections without charge to TCU.

The Commission finds that no provision of Order No. 91-367 conflicts with its prior Order exempting customers of Gibraltar Company, Inc. in Sections 8A, 8B, and 26D from tap fees. Accordingly, TCU customers in Sections 8A, 8B, and 26D of the Tega Cay Subdivision whose water and sewer lines were installed with no charge to TCU remain exempt from the tap fee provisions of Order No. 91-367.

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8. TCU proposed a $600 tap fee for water service.

6. Allocation of Expenses.

The Consumer Advocate argues that the "Commission erred by overallocating costs of the six companies that share office space with TCU, Inc. to the utility company without supporting this decision with adequate findings of fact and substantial evidence...". Consumer Advocate's Petition, p. 6. Additionally, the Consumer Advocate claims that because the Staff did not audit the records of the other companies, the Commission cannot accurately determine the proper costs to allocate to TCU. The Commission disagrees.

26 S. C. Regs. 103-836(4)(1976) provides as follows:

> A Petition for Rehearing or Reconsideration shall set forth clearly and concisely:
>
> (a) The factual and legal issues forming the basis for the petition;
>
> (b) The alleged error or errors in the Commission order;
>
> (c) The statutory provision or other authority upon which the petition is based. (Emphasis added).

Similarly, the South Carolina Supreme Court has specified that a legally sufficient petition for review of an administrative decision must "direct the court's attention to the error allegedly committed through a distinct and specific statement of the rulings complained of." Smith v. South Carolina Department of Social Services, 284 S.C. 469, 327 S.E.2d 348 (1983).

The Commission concludes that the Consumer Advocate's Petition on this issue fails to conform to the Commission's Regulation

because it does not specify which allocation the Consumer Advocate opposes. The Commission considered and ruled on several accounting adjustments which involved allocations of expenses among TCU and its sister companies. The Petition for Rehearing does not indicate which of these allocations the Consumer Advocate alleges was improper.

Because the Commission concludes that the Consumer Advocate's Petition for Rehearing does not clearly indicate which adjustments he opposes, the Commission finds it unnecessary to restate its findings of fact and conclusions of law in regard to each accounting adjustment which involved an allocation of expenses. In any event, the Commission's Order adequately sets forth its findings of fact and conclusions of law in regard to these allocations. Order, p. 8, 10, 12-13, 20-21, 23-24. Moreover, the Commission finds that in auditing the records of TCU, the Staff effectively audited the relevant records of Tega Cay Recreation, the only sister[9] company which had any ongoing business, by reviewing the bills shared between TCU and Tega Cay Recreation.

7. Proposed Rates for Commercial Customers.

The Consumer Advocate argues that the Commission erred by not adjusting the Company's operating revenues for three of its commercial customers, Allen Tate Realty, the Administration Building, and a day care center. The Commission disagrees.

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9. Company witness Oppel testified that while all of the sister companies operate out of the Tega Cay Clubhouse, 99% of the activity in the clubhouse is attributable to TCU and Tega Cay Recreation, Inc.

At the hearing on this matter, Staff witness Creech testified that Staff had proposed to adjust TCU's commercial revenues after determining that the 30,000 square foot Tega Cay Clubhouse which housed a restaurant, pro shop, conference center, swimming pool, lounge, and office space was paying the same sewage rate as a residential customer and a water rate based on a residential size meter. Creech Pre-Filed testimony, p. 3. Staff also adjusted the sewer revenues from Tega Cay Marina which had an SFE of 3.45 but was not paying at this rate.[10] Hearing Exhibit 15.[11] Witness Creech testified Staff did not propose an adjustment to the revenues of Allen Tate Realty, the Administration Building, or the day care center because their water usage did not exceed the DHEC single family equivalency rating.[12]

The Commission concludes its adjustments to TCU's revenues to reflect the proper revenues from Tega Cay Clubhouse and South Carolina Marina were proper. The Commission further concludes that no adjustment to the Company's revenues for the revenues from Allen Tate Realty, the Administration Building, and the day care center were necessary because these customers were paying proper rates.

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10. Order No. 91-367 inaccurately refers to Tega Cay Marina. Instead, the Order should refer to South Carolina Marina.

11. The previous order setting TCU's rates and charges did not provide a sewer rate for commercial customers.

12. These three commercial customers have septic tanks and, accordingly, do not have TCU sewer service.

8. Fire Hydrant Fee.

The Consumer Advocate states the Commission's decision to allow TCU to charge a $100 fire hydrant fee and a usage charge of $2.50 per 1,000 gallons is unsupported by the substantial evidence of record and its findings of fact. The Commission disagrees.

In Order No. 91-367-W/S the Commission specified that Tega Cay witness Mayor Edgar testified he opposed TCU's proposal to charge the City of Tega Cay an annual fee of $100 per fire hydrant and that, in his opinion, the cost of the hydrants should either be absorbed by TCU or spread among all of TCU's ratepayers. The Commission stated that Weaver testified that while TCU installed the fire hydrants, the City's Volunteer Fire Department maintained the hydrants at no cost to TCU and that Weaver admitted it was important to the City to have a ready supply of water to the fire hydrants. Order, p. 16-17.

The Commission also recited the testimony of Company witness Oppel. Oppel testified there are approximately 74 fire hydrants within the City. Oppel further testified that the City Volunteer Fire Department performed routine maintenance on the hydrants and TCU repaired leaks or broken parts. Witness Oppel stated that during the test year, TCU spent $455 to repair the hydrants. Order, p. 17.

The Commission concludes that this evidence sufficiently supports its approval of the Company's $100 per fire hydrant annual fee. While TCU only spent $455 to repair the fire hydrants during the test year, TCU did not have the expense of maintaining the

hydrants. Instead, the City Volunteer Fire Department performed all maintenance and upkeep on the hydrants. Under the approved fire hydrant fee, TCU will be responsible for the daily maintenance of the hydrants. The Commission finds that the necessary maintenance and upkeep on the fire hydrants, along with the ready supply of water in case of emergencies, justifies the $100 fee. Further, the Commission finds that the $2.50 commodity charge is reasonable and in keeping with the other approved rates for the Company.

9. Alternate Water Supplies.

The Consumer Advocate contends the Commission erred by encouraging TCU to investigate alternate water supplies. The Consumer Advocate states the Commission should have ordered TCU to pursue alternate sources of water and to report its investigation to the Commission. The Commission disagrees.

First, the Commission finds that the determination of whether to "order" or "encourage" TCU to investigate alternate water supplies is a matter exclusively within its discretion. Second, the Commission concludes that by informing TCU to investigate alternative water supplies, TCU is accountable to the Commission for the results of its investigation.

CONCLUSION

In conclusion, the Commission grants the Consumer Advocate's Petition for Reconsideration on the issue of including the revenues for the unmetered swimming pool water in the Company's operating revenues. The Commission determines that these revenues should

have been included in the Company's revenues. After including these revenues in TCU's operating revenues, however, the Commission finds that there is no corresponding effect to the Company's approved rates and charges.

The Commission grants the Consumer Advocate's Petition for Reconsideration on the issue of TCU's unaccounted for water. The Commission will notify the parties of the date scheduled for this hearing. The hearing will be strictly limited to the issue of the Company's unaccounted for water expense.

Finally, the Commission denies all other issues raised by the Consumer Advocate and denies the Company's and Mr. Stebbins' Petitions for Rehearing and Reconsideration.

BY ORDER OF THE COMMISSION:

VICE Chairman

ATTEST:

Deputy Executive Director

(SEAL)